

*City of Las Vegas*

**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: OCTOBER 11, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-23403 - APPLICANT/OWNER: MANUEL FIGUEROA AND SANDRA LUCAS**

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**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:

**Planning and Development**

1. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This application stems from a Code Enforcement Violation for an illegal structure being used as a Accessory Habitable Structure (Class I). The applicant is seeking approval for a Variance to allow the existing Class II Accessory Structure (shed) to be four feet from the primary structure where six feet is the minimum separation required. It is important to note that the 6,000 square foot parcel, located at 1912 Silver Birch Lane, cannot adequately meet the 6,500 minimum lot size required for a Class I Habitable Accessory Structure.

Due to the fact that this issue has arisen from a Code Enforcement citation for an illegal structure and that compliance can be readily met with the relocation of the shed, staff recommends denial.

**BACKGROUND INFORMATION**

<i><b>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</b></i>	
5/22/07	Code Enforcement citation #52001: People living in a shed at the rear of the house. Shed also does not meet setback requirements.
<i><b>Related Building Permits/Business Licenses</b></i>	
4/09/07	OTC Building Permit #85755: Over the counter permit for illegal structure. Permit review pending approval of this Variance request.
<i><b>Pre-Application Meeting</b></i>	
5/21/07	A pre-application meeting was held with staff to discuss the actions required to address the Code Enforcement citation for having an illegal structure that does not conform to Title 19 standards.
<i><b>Neighborhood Meeting</b></i>	
A neighborhood meeting is not required, nor was one held.	
<i><b>Field Check</b></i>	
8/9/07	A field check was made by staff with the following observations: <ul style="list-style-type: none"> <li>• An existing shed located in the side yard, four feet from the single-family dwelling.</li> <li>• The shed has a window-mounted air conditioning unit.</li> </ul>

<i><b>Details of Application Request</b></i>	
<i><b>Site Area</b></i>	
Net Acres	0.14 acres

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<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Single Family Dwelling	L (Low Density Residential)	R-1 (Single Family Residential)
North	Single Family Dwelling	L (Low Density Residential)	R-1 (Single Family Residential)
South	Single Family Dwelling	L (Low Density Residential)	R-1 (Single Family Residential)
East	Single Family Dwelling	L (Low Density Residential)	R-1 (Single Family Residential)
West	Single Family Dwelling	L (Low Density Residential)	R-1 (Single Family Residential)

<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Area Plan</b>		X	NA
<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Purpose and Overlay Districts</b>			
<b>Trails</b>		X	NA
<b>Rural Preservation Overlay District</b>		X	NA
<b>Development Impact Notification Assessment</b>		X	NA
<b>Project of Regional Significance</b>		X	NA

## **DEVELOPMENT STANDARDS**

*Pursuant to Title 19.08.040, the following standards apply:*

<b><i>Standard</i></b>	<b><i>Required/Allowed</i></b>	<b><i>Provided</i></b>	<b><i>Compliance</i></b>
Min. Lot Size	N/A	6,000 SF	Y*
Min. Setbacks for Accessory Structures			
• Primary Structure (Residence)	6 feet	4 feet	N
• Side Property Line	3 feet	7 feet	N
• Rear Property Line	3 feet	10 feet	N
Max. Lot Coverage	50%	12%	Y
Max. Height (Less than primary structure)	Less than 14 feet	9 feet (approximately)	Y

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## **ANALYSIS**

This request stems from a Code Enforcement Violation for utilizing an illegal (non-permitted) structure as a Habitable Accessory Structure (Class I). The shed currently sits four feet from the patio of the existing single family dwelling. The 9-foot tall (approximate), 80 square foot structure meets all other conditions for a Non-Habitable Accessory Structure (Class I) other than the required six-foot separation from the primary structure. It is important to note that the shed is outfitted with a ventilated roof and a window-mounted air conditioning unit. The provided photos of the existing shed show that the structure is neither anchored to the ground nor resting on a dedicated foundation.

Because this Variance stems from an illegal issue and could be easily resolved by merely moving the shed two feet to the north, staff is recommending denial.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by installing an illegal structure within the six foot separation distance from the primary structure. An alternative location stemming from simply moving the non-anchored shed two feet would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

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**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT**      12

**SENATE DISTRICT**      10

**NOTICES MAILED**      257

**APPROVALS**      0

**PROTESTS**      0